

CHAPTER 4

DISTRIBUTION STATEMENTS ON TECHNICAL DATAA. GENERAL

In accordance with Section 130 of Title 10, United States Code (reference (e)), a DoD distribution marking system for technical data has been established by DoD Directive 5230.24 and MIL-STD-1806 (references (c) and (n)). Based on the technical content of the data, one of seven distribution statements defined in (reference (c)) is-to be applied to indicate the extent of secondary distribution that is permissible without further authorization or approval of the controlling DoD office. The intent of the system is to stem the flow of military-related technical data to our adversaries, without inhibiting technological growth or blocking the exchange of technical data that is vital to progress and innovation. Properly applied, the system will keep critical technology from our adversaries but permit it to flow to Government Agencies and private organizations that have legitimate need for it. Chapter 7 of this Manual contains guidance on criteria which restricts or permits the release of data.

B. EXPORT-CONTROL WARNING NOTICE

Besides a distribution statement, the marking system also requires the use of a warning notice on all documents that contain export-controlled technical data. That notice may be used in conjunction with any of the six limited distribution statements ("B'', 'C'', 'D'', 'E'', 'F" and "X"). Statement A, which authorizes public release, cannot be used in conjunction with the export-control warning notice. Exact wording of the notice should be in accordance with reference. (r)) . **Procedures** for dissemination of this technical data outside of the U. S. Government are contained in DoD Directive 5230.25 (reference (o)).

C. MARKING REQUIREMENTS

1. Distribution statement markings are mandatory for all newly generated technical data. DoD managers of technical programs shall assign distribution statements to all technical data generated in their programs before primary distribution. That requirement does not apply to contractors' technical proposals or similar documents submitted in anticipation of contract awards.

2. There is no requirement to mark existing technical data held in the files unless a request is received for a copy of the data, or it is otherwise activated. In that case, the controlling DoD office shall determine releasability in accordance with DoD Directive 5230.24 . DoD Directive 5230.25, and DoD 5400.7-R (references (c), (o), and (p)).

3. Each revision shall be considered new technical data to be reviewed and marked appropriately. Whether or not previous versions of that data have been publicly released shall not be the determining factor in the dissemination determination.

4. The seven authorized distribution statements provide options ranging from unlimited distribution to no secondary distribution without specific authority of the controlling DoD office. The authority to withhold unclassified technical data from the public is found in Section 130 of Title 10, United States Code (reference (e)) as implemented by DoD Directive 5230.25 (reference (o)). Distribution statements can be applied to technical data that contain or reveal proprietary information, foreign government information, contractor performance evaluations, technical or operational information used solely for official administrative or operational purposes, critical technology, information not appropriate for premature dissemination because it pertains to systems or hardware in the

developmental or conceptual stage, or export-controlled data.

5. Although six of the seven statements indicate that public disclosure may be inappropriate, data managers and other DoD personnel should be aware that distribution statements are not in themselves authority to withhold unclassified technical data from public disclosure. Such determinations shall be made, in accordance with DoD Directive 5400.7 (reference (q)). Refer to Chapter 7 of this Manual for procedures on release of technical data to the public.

6. MIL-STD-1806 (reference (n)) provides specific procedures for selection and placement of the seven authorized statements. MIL-STD-961 and MIL-STD-962 (references (r) and (s)) provide that same information for military specifications, standards, and handbooks, respectively.

D. RESPONSIBILITY FOR MARKING

1. It is the responsibility of the controlling DoD office to select the "correct distribution statement and to ensure that the corresponding code letter ("A", "B", "C", "D", "E", "F", or "X") is in block 9 of the DD Form 1423 or that block 16 of the DD Form 1423 contains instructions on application of the correct distribution statement before initial distribution of the technical data. Frequently, it is not possible to determine the correct statement at the time the DD Form 1423 is prepared, and often, the contractor may be in a better position to recommend the correct statement. In those cases, the controlling DoD office and the contractor may negotiate the correct statement at one of the scheduled program audits or reviews. In any event, the controlling DoD office shall ensure that the technical data is correctly marked before initial distribution.

2. The controlling DoD office should coordinate the distribution statement requirements with appropriate legal counsel, foreign disclosure, and security personnel with respect to the statutory and regulatory requirements governing the export or other dissemination of technical data.

3. In the case of joint sponsorship of technical data, the controlling DoD office is determined by advance agreement and may be a party, a group, or a committee representing the interested activity or component.

E. DESTRUCTION AND HANDLING

All unclassified technical data marked with distribution statements "B", "C", "D", "E", "F", or "X" may be handled and destroyed as "For Official Use Only" (FOUO) documents, as described in DoD 5400.7-R (reference (p)). Classified, limited technical data shall be handled and destroyed in accordance with the procedures of Chapter IX of DoD 5200.1-R (reference (t)).

F. CHANGES TO MARKINGS

Controlling DoD offices shall notify the proper technical data dissemination facilities; e.g., repositories, when the controlling DoD office is redesignated, the office address is changed, or the markings or statements are changed.